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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/021,896	12/17/2001	Herbert Breinich	2000P80206 US	1969

7590 06/27/2003  
Martin A. Farber  
Suite 473  
866 United Nations Plaza  
New York, NY 10017

EXAMINER

HOOLAHAN, AMANDA J

ART UNIT PAPER NUMBER

2859

DATE MAILED: 06/27/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Applicati n N .

10/021,896

Applicant(s)

BREINICH ET AL.

Examin r

Amanda J Hoolahan

Art Unit

2859



-- The MAILING DATE f this communication appears on the c ver sheet with the c rrespondence address --

**Peri d f r Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 06 May 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disp sition of Claims**

- 4) ☒ Claim(s) 9 and 11-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 9 and 11-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claim 9, 11-15 and 17-20 are finally rejected under 35 U.S.C. 102(b) as being unpatentable by USPN 4,380,043 to Takamatsu et al. [hereinafter Takamatsu].

Numerals A, B, and C have been added to Figure 1 and numeral D to Figure 2 by the examiner in reference to a certain component of the invention disclosed by Takamatsu. See copy attached at the end of this action.

Takamatsu discloses a display instrument comprising at least two illuminated pointers (33, 34) which are located one on top of the other, each composed of a head and a pointer lug and rotatable independently of one another about a common display axis, the illuminated pointers being composed of a light-guiding material and each having a light entry face and light injected there exiting on a side of the pointer lugs facing the viewer, wherein for at least two of the illuminated pointers (33, 34) there is a common light source (23), and light is fed to the illuminated pointers via a light splitter (D); a drive shaft (30) of one of the pointers serves as a light guide and a portion of the drive shaft is embodied as the light splitter; the light splitter (D) is plugged together with a main part of the drive shaft (30); in the light splitter (D), one portion of the light exits in a direction of an axis of rotation and a further portion exits perpendicular thereto(see Figure 1); an upper illuminated pointers (34) has the light entry face (B) which picks

up the light exiting in the axial direction, said upper illuminated pointer (34) being plugged onto the light splitter; a lower of illuminated pointers (33) has the light entry face (C) which picks up laterally exiting light; a head (33a) of the lower illuminated pointer (33) surrounds the light splitter (A) in an annular shape and the light entry face (C) is embodied on an inner generated surface in the head; in the light splitter (A), one portion of the light exits in a direction of an axis of rotation and a further portion exits perpendicular thereto.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 16 is finally rejected under 35 U.S.C. 103(a) as being unpatentable over Takamatsu in view of USPN 6,224,221 to Glienicke.

Numerical A has been added to Figure 1 by the examiner in reference to a certain component of the invention disclosed by Takamatsu. See copy attached at the end of this action.

Takamatsu discloses the display instrument as described above in paragraph 2.

Takamatsu does not disclose the light splitter to have a frustum-shaped coaxial depression, a generated surface of frustum serving as a reflection face for laterally exiting light and a base face serving as an exit face for axially exiting light.

Glienicke discloses an illuminated device comprising a frustum-shaped coaxial depression (13), a generated surface of frustum (15) serving as a reflection face for laterally exiting light and a base face (A) for axially exiting light. Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to replace the light splitter, as taught by Takamatsu, with the frustum-shaped coaxial depression, as taught by Glienicke, in order to more directly reflect the light to each of the respective pointers.

#### ***Response to Arguments***

5. In response to Applicant's argument that Takamatsu does not disclose the drive shaft serving as a light guide: This argument is not persuasive because, as clearly shown in Figure 1 of Takamatsu, the drive shaft (30) does, in fact, serve as a light guide because the upper end of the drive shaft guides the reflected beam upward since the beam does not reflect directly through the drive shaft and moves parallel with it.

In response to Applicant's argument that a portion of the drive shaft disclosed by Takamatsu is not embodied as a light splitter: This argument is not persuasive because, as pointed out in the prior action, (D) in Figure 2 points out the portion of the drive shaft that is a light splitter. The side of the drive shaft is coupled to the light splitter (33c) thus making the light splitter embodied with the drive shaft.

In response to Applicant's argument that the upper illuminated pointer disclosed by Takamatsu is not plugged onto the light splitter: This argument is not persuasive because the light splitter and the upper illuminated pointer are fixed with one another. Applicant misinterprets the principle that claims are interpreted in the light of the specification. Although these elements are found as examples or embodiments in the specification, they were not claimed explicitly. Nor were the words that are used in the claims defined in the specification to require these limitations. A reading of the specification provides no evidence to indicate that these limitations must be imported into the claims to give meaning to disputed terms. Constant v. Advanced Micro-Devices Inc., 7 USPQ2d 1064. In this case, the upper illuminated pointer and the lower illuminated pointer are both plugged into a light splitter, being that both have light splitters and are embodied with the drive shaft.

In response to Applicant's argument that Takamatsu does not disclose a light entry face: This argument is not persuasive because, as pointed out in the previous action, Numeral B clearly points out the light entry face that picks up laterally exiting light. Light enters and exits this face, thus making it an *entry* face.

In response to Applicant's argument that the Glienicke reference does not disclose a drive shaft of a pointer: This argument is not persuasive because the examiner was only using the teaching of the Glienicke reference to show that a frustum surface can be used to reflect light in multiple directions. Therefore, the teaching of the reflective surface was used to replace the

reflective surfaces, taught in the Takamatsu reference, in order to better reflect the light into the pointers.

***Conclusion***

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

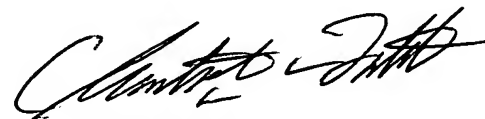
7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Amanda J Hoolahan whose telephone number is (703) 308-0139. The examiner can normally be reached on Monday through Friday 8:00 am to 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diego F Gutierrez can be reached on (703) 308-3875. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9318 for regular communications and (703) 872-9319 for After Final communications.

Art Unit: 2859

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1782.

ajh  
June 25, 2003



Diego Gutierrez  
Supervisory Patent Examiner  
Technology Center 2800

**CHRISTOPHER W. FULTON**  
**PRIMARY EXAMINER**